

WV Offices of the Insurance Commissioner

REQUEST FOR INFORMATION

INS12019

Reinsurance for West Virginia Uninsured Employer Fund

THE WEST VIRGINIA OFFICES OF THE INSURANCE COMMISSIONER, IS REQUESTING INFORMATION AS TO HOW THE WEST VIRGINIA UNINSURED EMPLOYER FUND MAY PROCURE REINSURANCE PRODUCT(S) TO PROTECT ITSELF FROM CATASTROPHIC OCCURRENCES.

NOTE: THIS IS FOR INFORMATION PURPOSES ONLY. NO PURCHASE ORDER/CONTRACT WILL BE ISSUED VIA THIS RFI.

INQUIRIES:

TECHNICAL QUESTIONS MUST BE SUBMITTED IN WRITING TO **VICKIE MARCUM** IN THE WEST VIRGINIA OFFICES OF THE INSURANCE COMMISSIONER VIA MAIL AT THE ADDRESS SHOWN AT THE TOP OF THE RFI, VIA FAX **304-558-4967**, OR VIA E-MAIL AT **BIDS@WVINSURANCE.GOV**. DEADLINE FOR ALL TECHNICAL QUESTIONS IS **JUNE 15, 2012** AT THE CLOSE OF BUSINESS. ALL TECHNICAL QUESTIONS RECEIVED, IF ANY, WILL BE ADDRESSED BY ADDENDUM AFTER THE DEAD LINE.

WV Offices of the Insurance Commissioner

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Reinsurance for West Virginia Uninsured Employer Fund

NOTICES AND INSTRUCTIONS

1.1. INTRODUCTION

This request is for information only to assist the West Virginia Offices of the Insurance Commissioner (OIC) in determining how to best competitively procure reinsurance products designed to protect the solvency of the West Virginia Uninsured Employer Fund (UEF) from catastrophic occurrences.

Please be advised that this may be a two-step process. Should the state determine to proceed with a solicitation based on the responses to this Request for Information (RFI), phase two will then be either a formal Request for Proposal (RFP) or Request for Quotation (RFQ) to be handled in accordance with West Virginia purchasing policies and procedures.

1.2. PURPOSE

The purpose of this Request for Information (RFI) is for the OIC to gather expert advice and information as well as examples of the best approaches to procure on a competitive basis reinsurance product(s) designed to protect the solvency of the West Virginia Uninsured Employer Fund (UEF) from catastrophic occurrences. Most likely, this will involve a reinsurance broker soliciting reinsurance product for the UEF from various reinsurers at desired retention and attachment levels.

1.3. BACKGROUND

The State of West Virginia (WV) enacted its first workers' compensation law and created the West Virginia Workers' Compensation Fund in 1913. Until relatively recently, West Virginia relied upon a monopolistic state fund to provide workers' compensation coverage. On January 29, 2005, the Legislature passed Senate Bill 1004, which included the following reforms in regard to workers' compensation in West Virginia: (1) converted the state's monopolistic fund into a privatized, competitive, insurance based system; (2) transferred regulation of WV workers' compensation market to the WV Offices of the Insurance Commissioner; and (3) created several funds to protect the integrity and provide safeguard for WV workers, including most significant the UEF, as

codified in W. Va. Code §23-2C-8. The purpose of the UEF is to provide workers' compensation for injured employees of workers whose employers failed to maintain mandatory coverage on the date of injury.

1.4. **CURRENT CIRUCMSTANCES/SITUATION**

The UEF became a "live" fund (began accepting claims) on the same date West Virginia's market became privatized, 1/1/06. Pursuant to W. Va. Code §23-2C-6(b)(2), the UEF received \$5 million in original funding prior to 1/1/06; further, pursuant to W. Va. Code §23-2C-8, the UEF receives regular revenue from fines against uninsured employers that can be as much as \$10,000 and collections efforts against uninsured employers (uninsured employers are responsible for claims on a "dollar for dollar basis).

1.4.1. Operations of UEF

The UEF receives claims on a claims application promulgated by the OIC. Applications for benefits are processed by the UEF's Employer Coverage Unit (ECU), the OIC's unit dedicated to enforcing employer compliance with West Virginia's mandatory workers' compensation laws. The ECU has an experienced director, Deborah Tincher, who has about 12 years of experience in workers' compensation administration, and is also an Associate Professional in Insurance Regulation (APIR). The ECU unit has 5 additional full time employees (FTE's) with decades of experience in workers' compensation enforcement and related issues. Three (3) of ECU's FTE's work almost exclusively on UEF issues, while the other three also assist on UEF issues at times. The ECU also has access to full time civil case investigators in the OIC's legal division who regularly investigate workers' compensation and insurance related matters.

When a claim is received, members of the UEF and one member of the OIC's legal division review the claim to determine if the claim meets the initial jurisdictional requirements for acceptance into the UEF. The OIC always makes efforts to aggressively identify and place coverage with responsible prime contractors if applicable, and has had success doing this more often than not. Once a decision is made, the claim is forwarded to the OIC's TPA for the UEF, Sedgwick CMS, and they manage the claim, including sending out a rejection or acceptance letter, and then assessing other aspects of the claim to determine if any benefits should be paid. If the claimant or other parties (for example the employer) protest any decisions, the UEF has a dedicated legal staff of seasoned workers' compensation attorneys, the Attorney General's Claims Defense Division, charged with defending all claims decisions made by the UEF's TPA.

If a claim is accepted into the UEF, the uninsured employer becomes liable on a "dollar for dollar" basis for all claims expenses, plus any applicable administration costs attorney fees. The OIC's Revenue Recovery Division is charged with aggressively collecting these amounts from the employer. The current director of Revenue Recovery,

Tina Clark, has approximately eighteen (18) years of experience in the area of collections, working in five (5) states, both in the public and private sector. The Revenue Recovery Unit has ten (10) FTE's, eight (8) of whom are dedicated solely to UEF and uninsured fine collections. The Revenue Recovery unit works with the OIC's legal division when legal assistance is needed, such as filing lawsuits and liens, and pursuing third-party subrogation recovery. The OIC will also hire outside counsel for complex collections matters involving the UEF.

In addition to pursuing revenue from the uninsured employer, the UEF also receives 100% of all fines imposed upon employers for failing to maintain mandatory workers' compensation insurance (up to \$10,000 per fine). Finally, the UEF has the option of implementing assessments on workers' compensation carriers and self-insured employer if the fund requires additional funding (to date no such assessments have been required).

1.4.2. Current Status of the UEF

As of 3/26/2012, the UEF has 43 open (active) claims. The total paid to date on these claims is \$1,253,540.64, with \$668,400.15 being indemnity payments, \$542,292.62 being medical payments, and \$52,847.87 being other miscellaneous expenses. There is a total future reserve in these claims of \$1,389,237.40, for total incurred case reserves in this book of business of \$2,642,778.04.¹

The highest reserved claim is at \$526,352.83, a traumatic brain injury claim, with the next highest reserve claim at \$358,306.89. There are five (5) other claims with reserves between \$100,000 and \$200,000, with all remaining claims below \$100,000.

As of the fiscal year ending on June 30, 2011, the UEF had approximately \$9 million in assets, approximately \$4.7 million in total liabilities (current and noncurrent) for total net assets of approximately \$4.5 million. For additional information on the UEF's finances, see attachment 1.

1.4.3. Data regarding WV's employer market and uninsured employers in WV

For a brief summary of WV's employer market and uninsured employers, see attachment 2.

1.4.4. Information about Company and Products Available/Potentially Available

The OIC is primarily seeking reinsurance products with the following two features:

- (1) An attachment point of between \$2 to \$3 million dollars; and
- (2) A single layer of \$10 million.

¹ These numbers are according to the OIC's TPA who manages UEF claims.

The OIC would like to know if the respondent believes there might be a market for this type of product to cover the UEF and an estimated price. Further, the OIC is also interested in hearing about alternative reinsurance products that respondents believes may be a good fit for the UEF based on the information provided herein, including different rating methods, retention methods, etc.

Additionally, the OIC would like the company to provide as much information as possible regarding the respondent reinsurance intermediary/broker/agent firm, including, but not limited to:

- (1) Background information on the firm;
- (2) Percentage of firm's business focused on reinsurance products;
- (3) The amount of premium dollar placed in the reinsurance market in each of the past three (3) years;
- (4) The number, names and ratings of reinsurance companies with whom the firm has placed coverage;
- (5) Whether the firm has ever placed reinsurance products for a state/public fund or quasi-state/public fund, and if so, information on such business transactions;
- (6) Whether the firm has any experience in placing products in West Virginia's market;
- (7) Names/CV's of firm employees specializing in reinsurance procurement;
- (8) An explanation as to the firm's process for bidding potential accounts to its clients, including any unique methodologies, and outlining how the firm assures bids are made on behalf of its client on a competitive basis;
- (9) A detailed explanation as to what intermediary/brokerage/agent fees the firm takes from both the client and the reinsurance company;
- (10) Any other information the firm believes could assist the OIC in assessing the ability to the firm to meet the needs of the OIC stated herein.

1.5 **RESPONSE REQUIREMENTS**

Please keep your response to twenty (20) pages or less, 11 point font, 1.5 line spacing with a table of contents and number pages with tabbed sections. As it is anticipated that firms will submit brochures and marketing information, and the State may not be able to copy such material, firms are requested to provide three (3) copies of each such item submitted. RFI responses should contain the following:

- **Contact Information**
 - Company Name
 - Address
 - Name of the individual who will act as primary point of contact for inquiries
 - Contact person's telephone number and email address
- **Comments**

All advice should be provided in the context of complying with all federal and state laws that are in place pertaining to the sale of reinsurance products.

Responses should include recommendations on how the OIC should proceed in procuring reinsurance product(s) to protect the financial integrity of the fund. Please provide your evaluative comments on the project description and requirements outline in this document. Include any suggestions or advice regarding the design, implementation, management, technology, etc. of this contemplated project. Detail what additional information or clarification would be needed in order to prepare a comprehensive proposal in the future.

▪ Approach

Based on the project information provided to date, briefly describe the approach you would recommend for this project and why.

1.6 **SUBMISSION OF INFORMATION**

Submit written responses and literature no later than 06/29/12 to:

*WV Offices of the Insurance Commissioner
Attn: Vickie Marcum
1124 Smith Street
Charleston, WV 25301*

1.7. **OUTCOME**

The OIC and State of West Virginia do not guarantee any formal solicitation will be generated based on this RFI.

WEST VIRGINIA
OFFICES OF THE INSURANCE COMMISSIONER
SCHEDULE OF NET ASSETS
WORKERS' COMPENSATION INFORMATION
JUNE 30, 2011
(In Thousands)

	WC Old Fund <u>Debt Reduction</u>	Coal Workers' <u>Pneumoconiosis</u>	Uninsured <u>Fund</u>	Self-Insured <u>Funds</u>	<u>Total</u>
Assets:					
Current Assets					
Cash and Cash Equivalents	\$ 938,210	\$ 261,609	\$ 9,049	\$ 9,883	\$ 1,218,751
Receivables, Net:					
Statutory Allocations	10,320	-	-	-	10,320
Assessments	-	-	135	-	135
Employer Surcharge	9,147	-	-	-	9,147
Premiums	21	-	-	-	21
Other	1	-	-	-	1
Total Current Assets	<u>957,699</u>	<u>261,609</u>	<u>9,184</u>	<u>9,883</u>	<u>1,238,375</u>
Total Assets	<u>957,699</u>	<u>261,609</u>	<u>9,184</u>	<u>9,883</u>	<u>1,238,375</u>
Liabilities:					
Current Liabilities:					
Estimated Liability for Unpaid Claims and Claim Adjustment Expense	213,000	11,500	600	-	225,100
OPEB Liability	393	-	-	-	393
Accrued Expenses and Other Liabilities	94	-	-	2	96
Total Current Liabilities	<u>213,487</u>	<u>11,500</u>	<u>600</u>	<u>2</u>	<u>225,589</u>
Noncurrent Liabilities:					
Estimated Liability for Unpaid Claims and Claim Adjustment Expense	<u>1,708,800</u>	<u>124,400</u>	<u>4,100</u>	<u>500</u>	<u>1,837,800</u>
Total Noncurrent Liabilities	<u>1,708,800</u>	<u>124,400</u>	<u>4,100</u>	<u>500</u>	<u>1,837,800</u>
Total Liabilities	<u>1,922,287</u>	<u>135,900</u>	<u>4,700</u>	<u>502</u>	<u>2,063,389</u>
Net Assets:					
Restricted for:					
Coal Workers' Pneumoconiosis	-	125,709	-	-	125,709
Uninsured Fund	-	-	4,484	-	4,484
Self-Insured Fund	-	-	-	9,381	9,381
Unrestricted (Deficit)	<u>(964,588)</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>(964,588)</u>
Total Net Assets (Deficit)	<u>\$ (964,588)</u>	<u>\$ 125,709</u>	<u>\$ 4,484</u>	<u>\$ 9,381</u>	<u>\$ (825,014)</u>

WEST VIRGINIA
OFFICES OF THE INSURANCE COMMISSIONER
SCHEDULE OF REVENUES, EXPENSES, AND CHANGE IN FUND NET ASSETS
WORKERS' COMPENSATION INFORMATION
YEAR ENDED JUNE 30, 2011
(In Thousands)

	<u>WC Old Fund Debt Reduction</u>	<u>Coal Workers' Pneumoconiosis</u>	<u>Uninsured Fund</u>	<u>Self-Insured Funds</u>	<u>Total</u>
Operating Revenues					
Statutory Allocations	\$ 200,763	\$ -	\$ -	\$ -	\$ 200,763
Assessments	-	-	655	-	655
Employer Surcharge	47,964	-	-	1,196	49,160
Net Premium Revenue	690	-	356	-	1,046
Other Operating Revenue	<u>1,325</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>1,325</u>
Total Operating Revenue	<u>250,742</u>	<u>-</u>	<u>1,011</u>	<u>1,196</u>	<u>252,949</u>
Operating Expenses and Claims Provision					
Claims and Claim Adjustment Provision (See Note 5)	164,628	(5,185)	525	29	159,997
General and Administration	<u>19,951</u>	<u>17</u>	<u>8</u>	<u>90</u>	<u>20,066</u>
Total Operating Expenses and Claims Provision	<u>184,579</u>	<u>(5,168)</u>	<u>533</u>	<u>119</u>	<u>180,063</u>
Operating Income (Loss)	<u>66,163</u>	<u>5,168</u>	<u>478</u>	<u>1,077</u>	<u>72,886</u>
Nonoperating Revenues					
Investment Earnings	<u>80,277</u>	<u>27,812</u>	<u>428</u>	<u>544</u>	<u>109,061</u>
Total Nonoperating Revenues	<u>80,277</u>	<u>27,812</u>	<u>428</u>	<u>544</u>	<u>109,061</u>
Change in Net Assets (Deficit)	146,440	32,980	906	1,621	181,947
Total Net Assets (Deficit) - Beginning of Year	<u>(1,111,028)</u>	<u>92,729</u>	<u>3,578</u>	<u>7,760</u>	<u>(1,006,961)</u>
Total Net Assets (Deficit) - End of Year	<u>\$ (964,588)</u>	<u>\$ 125,709</u>	<u>\$ 4,484</u>	<u>\$ 9,381</u>	<u>\$ (825,014)</u>

WEST VIRGINIA
OFFICES OF THE INSURANCE COMMISSIONER
SCHEDULE OF CASH FLOWS
WORKERS' COMPENSATION INFORMATION
YEAR ENDED JUNE 30, 2011
(In Thousands)

	WC Old Fund Debt Reduction	Coal Workers' Pneumoconiosis	Uninsured Fund	Self-Insured Funds	Total
Cash Flows from Operating Activities					
Receipts from Statutory Allocations, Fees and Assessments	\$ 248,667	\$ -	\$ 1,015	\$ -	\$ 249,682
Receipts from Employers	3,245	-	(69)	1,236	4,412
Payments to Claimants and Providers	(265,396)	(10,415)	(1,225)	(93)	(277,129)
Payments to Employees	(265)	-	-	-	(265)
Payments to Suppliers	(20,784)	(17)	(8)	(91)	(20,900)
Net Cash Provided (Used) by Operating Activities	<u>(34,533)</u>	<u>(10,432)</u>	<u>(287)</u>	<u>1,052</u>	<u>(44,200)</u>
Cash Flows from Investing Activities					
Investment Earnings	<u>80,277</u>	<u>27,812</u>	<u>428</u>	<u>544</u>	<u>109,061</u>
Net Cash Provided (Used) by Investing Activities	<u>80,277</u>	<u>27,812</u>	<u>428</u>	<u>544</u>	<u>109,061</u>
Net Increase in Cash and Cash Equivalents	45,744	17,380	141	1,596	64,861
Cash and Cash Equivalents - Beginning of Year	<u>892,466</u>	<u>244,229</u>	<u>8,908</u>	<u>8,287</u>	<u>1,153,890</u>
Cash and Cash Equivalents - End of Year	<u>\$ 938,210</u>	<u>\$ 261,609</u>	<u>\$ 9,049</u>	<u>\$ 9,883</u>	<u>\$ 1,218,751</u>
Reconciliation of operating income (loss) to net cash provided (used) by operating activities					
Operating Income (Loss)	\$ 66,163	\$ 5,168	\$ 478	\$ 1,077	\$ 72,886
Adjustments to reconcile operating income (loss) to net cash provided (used) by operating activities:					
Net change in assets and liabilities					
Receivables, net	1,170	-	(65)	40	1,145
Estimated liability for claims and claim adjustment expenses	(100,900)	(15,600)	(700)	-	(117,200)
Accrued expenses and other liabilities	<u>(966)</u>	<u>-</u>	<u>-</u>	<u>(65)</u>	<u>(1,031)</u>
Net cash provided (used) by operating activities	<u>\$ (34,533)</u>	<u>\$ (10,432)</u>	<u>\$ (287)</u>	<u>\$ 1,052</u>	<u>\$ (44,200)</u>

Summary of UEF Spreadsheet Data

Prepared: May 15, 2012

- In the State of West Virginia, there are approximately 45,000 employers; approximately 34,000 of those employers require WC coverage.
- As of May 12, 2012 the OIC's records indicate that 553 employers appearing to need workers' compensation coverage are without coverage.
- From 7/1/2009 through May 1, 2012,¹ there were 6,470 uninsured defaulted accounts (employers who were discovered to be without mandatory coverage) with a total number of uninsured days in the amount of 899,688 days. This calculates out to an average of 139 days uninsured per account.
- Of the 6,470 uninsured defaulted accounts, there were 711 repeat offenders. These employers had at least 2 or more uninsured accounts during the period. Statistics are as follows:
 - 7 employers with 4 accounts
 - 81 employers with 3 accounts
 - 623 employers with 2 accounts
- Of all the defaulted accounts during the period the top ten classes, number of accounts and a brief description of class are presented below:

○ Class 5645	568	Carpentry - Detached One or Two Family Dwellings
○ Class 9082	472	Restaurant NOC
○ Class 8380	360	Automobile Service or Repair Center & Drivers
○ Class 8832	350	Physician & Clerical
○ Class 8810	298	Clerical Office Employees NOC
○ Class 9084	243	Bar Discotheque Lounge Nighclub or Tavern
○ Class 8017	237	Store: Retail NOC
○ Class 7228	193	Trucking Local Hauling Only All Employees & Drivers
○ Class 8742	181	Salespersons or Collectors Outside
○ Class 9083	180	Restaurant: Fast Food

¹ This date range is used because due to the transition of IT systems from a monopolistic to a privatized system which took place from 2006 to 2008, there is a lack of reliable data during the period prior to July 1, 2009.

- As of May 1, 2012 there were 1,280 employer accounts with balances owed or in “pending” status².

² “Pending status” means the employer is believed to be in default but has not been placed in default as of yet due to awaiting a period to confirm whether the employer has procured coverage elsewhere or needs coverage, whether the employer is going to protest the intent to place them on the default list or whether the employer is awaiting a protest hearing and/or decision.